

"I was just following orders" to be so cowardly that it was prohibited under the rules of the trial.

Perversely, there are some who consider that defense acceptable for Americans today.

The proponents of these rationalizations tell us that we are living in different times.

That we are facing enemies who show blatant disregard for human life, and whose organizations transcend international borders.

As a result, the argument goes, we must re-evaluate certain conventions and practices that we have long respected.

I wonder how men like Robert Jackson and my father would respond to these arguments. Would they be swayed by them? Would they be persuaded somehow that the followers of Osama bin Laden and Saddam Hussein are fundamentally different from the despicable and depraved defendants who swore allegiance to Adolf Hitler?

Would these men, who prosecuted the Nazis based on testimony and documentary evidence, be heartened by the argument that the best responses we can muster against evil today are attack dogs and water-boarding?

I truly, truly think not. On the contrary, I believe that Robert Jackson and my father would be tremendously disappointed and saddened at some of the actions taken by Americans on behalf of our nation—and by some of the official legal arguments made in support of those actions.

I believe that Robert Jackson and Thomas Dodd would see these actions as a reflection of a government that has turned away from the lessons of history and stepped back from the very values of due process and equal justice that we expect of others worldwide.

Is the threat of international terrorism a dangerous one? Unquestionably. But we cannot allow that danger to compromise bedrock principles which have stood since the birth of our nation—values like the right to be free from torture or from indefinite detention without a charge.

We enshrined these values in our Constitution not simply because we believe Americans are entitled to them. We did so because they affirm a basic sense of human dignity in each and every man and woman. And because we, as a nation, are committed to upholding that dignity—even if others do not.

If we cavalierly toss aside those values in response to a particular enemy or threat, it is not our enemies, but we who will pay the ultimate price.

As Justice Jackson said at Nuremberg, "we must never forget that the record on which we judge these defendants today is the record on which history will judge us tomorrow. To pass these defendants a poisoned chalice is to put it to our own lips as well."

A century and a half ago, in his second State of the Union address, Abraham Lincoln said that in giving or denying freedom to slaves, "We shall nobly save or meanly lose the last, best hope of earth."

The issue then was how our nation treats the enslaved. Sixty years ago, the question was how to treat Nazi war criminals. Today, we face the same choice with regard to the way we treat international terrorists.

If we heed the example set at Nuremberg by people like Robert Jackson and Thomas Dodd, if we treat our enemies according to our standards—not theirs—we feed the flame of liberty and justice that has rightly led our nation on its journey for these past two and a quarter centuries.

And we set a shining and lasting example for a true global community—one grounded in the principles of justice, freedom, and peace.

And we live up to the great memory of Robert Jackson and of a young counsel named Thomas Dodd.

HONORING OUR ARMED FORCES

TRIBUTE TO SPECIALIST SETH GARCEAU

Mr. GRASSLEY. Mr. President, today I rise in remembrance of a fellow Iowan who has fallen in service to his country in Iraq. Specialist Seth Garceau died on the 4th of March after being seriously injured by a roadside explosive on the 27th of February. A member of the Iowa Army National Guard Company A, 224th Engineer Battalion, Specialist Garceau is survived by a mother, Lori, a father, Rick, and a sister, Tess.

Seth Garceau grew up in Oelwein, IA, and enlisted in the Iowa Army National Guard in 2000 while he was still in high school. Seth graduated from Oelwein High School in 2001 and was mobilized for Operation Iraqi Freedom in 2004. Officials announced on the 5th of February that Specialist Garceau will be promoted posthumously to the rank of Sergeant.

Former President Calvin Coolidge once said, "No person was ever honored for what he received. Honor has been the reward for what he gave." Seth Garceau has given his life, that greatest of gifts, and for that, we shall forever honor him. I offer my most sincere sympathy to his family and friends who have felt this loss most deeply. May we always remember Seth with respect and admiration. For his life and the sacrifice he made, he deserves no less.

RULES OF PROCEDURE—COMMERCE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. STEVENS. Mr. President, the Committee on Commerce, Science, and Transportation has adopted rules governing its procedures for the 109th Congress. Pursuant to Rules XXVI, paragraph 2, of the Standing Rules of the Senate, on behalf of myself and Senator INOUE, I ask unanimous consent that a copy of the Committee Rules be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RULES OF THE SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

I. MEETINGS OF THE COMMITTEE

1. The regular meeting dates of the Committee shall be the first and third Tuesdays of each month. Additional meetings may be called by the Chairman as he may deem necessary or pursuant to the provisions of paragraph 3 of rule XXVI of the Standing Rules of the Senate.

2. Meetings of the Committee, or any Subcommittee, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the Committee, or any Subcommittee, on the same subject for a period of no more than 14 calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in subparagraphs (A) through (F) would require the meeting to be closed, followed immediately by a record vote in open session by a majority of the

members of the Committee, or any Subcommittee, when it is determined that the matter to be discussed or the testimony to be taken at such meeting or meetings—

(A) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(B) will relate solely to matters of Committee staff personnel or internal staff management or procedure;

(C) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(D) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(E) will disclose information relating to the trade secrets of, or financial or commercial information pertaining specifically to, a given person if—

(1) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(2) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(F) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

3. Each witness who is to appear before the Committee or any Subcommittee shall file with the Committee, at least 24 hours in advance of the hearing, a written statement of his testimony in as many copies as the Chairman of the Committee or Subcommittee prescribes.

4. Field hearings of the full Committee, and any Subcommittee thereof, shall be scheduled only when authorized by the Chairman and ranking minority member of the full Committee.

II. QUORUMS

1. A majority of members which shall include at least one minority member shall constitute a quorum for official action of the Committee when reporting a bill, resolution, or nomination. Proxies shall not be counted in making a quorum.

2. Eight members shall constitute a quorum for the transaction of all business as may be considered by the Committee, except for the reporting of a bill, resolution, or nomination. Proxies shall not be counted in making a quorum.

3. For the purpose of taking sworn testimony a quorum of the Committee and each Subcommittee thereof, now or hereafter appointed, shall consist of one Senator.

III. PROXIES

When a record vote is taken in the Committee on any bill, resolution, amendment, or any other question, a majority of the members being present, a member who is unable to attend the meeting may submit his or her vote by proxy, in writing or by telephone, or through personal instructions.

IV. BROADCASTING OF HEARINGS

Public hearings of the full Committee, or any Subcommittee thereof, shall be televised or broadcast only when authorized by the Chairman and the ranking minority member of the full Committee.

V. SUBCOMMITTEES

1. Any member of the Committee may sit with any Subcommittee during its hearings

or any other meeting but shall not have the authority to vote on any matter before the Subcommittee unless he or she is a Member of such Subcommittee.

2. Subcommittees shall be considered de novo whenever there is a change in the chairmanship, and seniority on the particular Subcommittee shall not necessarily apply.

VI. CONSIDERATION OF BILLS AND RESOLUTIONS

It shall not be in order during a meeting of the Committee to move to proceed to the consideration of any bill or resolution unless the bill or resolution has been filed with the Clerk of the Committee not less than 48 hours in advance of the Committee meeting, in as many copies as the Chairman of the Committee prescribes. This rule may be waived with the concurrence of the Chairman and the ranking minority member of the full Committee.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

Last week, a man pleaded guilty to aggravated manslaughter for killing a 15-year-old girl at a bus stop. Sakia Gunn, the victim, and four other girls were standing outside a bus stop when the assailant approached the girls with an invitation to a party. The girls responded that they were lesbians and were not interested in going. The assailant began making homophobic insults at the girls and stabbed Sakia Gunn.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

ACCOUNTABILITY FOR THE ABUSE OF FOREIGN DETAINEES

Mr. LEAHY. Mr. President, with this new session of Congress and the President's new term we are presented with new opportunities for change. Congress and the President have embraced these opportunities on many issues—new cabinet officials have been confirmed and a renewed effort is underway by the administration to repair strained international relationships. Unfortunately, on one important front there has been no change: The administration continues to stonewall on the prisoner abuse scandal and Congress continues to abdicate its oversight responsibility on this issue.

Ignoring this problem will not make it go away. Even without a comprehen-

sive, independent investigation into the abuse of detainees, we continue to learn more about this scandal from press reports and the court-ordered release of Government documents in response to Freedom of Information Act (FOIA) litigation.

The latest set of documents made public through the FOIA case reveal not only more incidents of abuse, but also indicate that soldiers in Afghanistan destroyed evidence of detainee mistreatment. One file documents the Army's investigation into the discovery of a compact disk during an office clean-up in Afghanistan in July 2004. The disk contained photos of U.S. soldiers pointing their handguns and rifles at the heads of bound and hooded detainees. Many of the soldiers questioned about these photos said they were "joking around" and that they wanted to have some good pictures to show their friends back home. If the roles were reversed and it was American POWs being used as photo props with weapons pointed at their heads, we would be rightly outraged by this conduct.

While the photos on this disk are disturbing in their own right, the circumstances surrounding this investigation are even more troubling. Unlike the photos from Abu Ghraib, these photos were not investigated because of an American soldier, in an act of conscious, gave the photos to a superior officer. These new photos were discovered by accident. The subsequent investigation into the photos revealed that soldiers in the unit were told by their superiors to delete similar photos of abuse to prevent their disclosure.

New details have also emerged about one of the infamous Abu Ghraib photos. Many will remember the photo of Manadel al-Jimadi's corpse packed in ice with Specialist Charles Graner posing over the body and giving the "thumbs-up" sign. We have known for months that this was a homicide, but a recent news report provides additional details about al-Jimadi's death. Al-Jimadi, one of the CIA's ghost detainees at Abu Ghraib, was secretly held at the prison. The International Committee of the Red Cross was denied access to him in violation of the Geneva Conventions. Now, press reports indicate that he died in a position known as "Palestinian hanging." This barbaric practice entails cuffing the detainee's hands behind his back and suspending him from the wrists.

President Bush condemned Saddam Hussein for similar practices; the President should be as outraged when these acts are committed by American personnel.

Meanwhile, the media continues to reveal details about the administration's use of extraordinary rendition to transfer terrorism suspects in U.S. custody to the custody of countries where they are likely to be tortured. A recent article in *The New Yorker*, titled "Outsourcing Torture," provides disturbing details about how the adminis-

tration embraced the use of renditions after the attacks on September 11. The article cites three instances where the U.S. transferred suspected militants from Afghanistan to Uzbekistan. Although the fate of these men is not known, Uzbekistan is known to use interrogation methods such as partially boiling a detainee's hand or arm.

The State Department recently released its annual human rights report. The report criticized several countries for employing interrogation techniques that the State Department considered to be torture, yet are similar to techniques approved in 2002 by Secretary Rumsfeld. How can we criticize these countries for using techniques that our own Defense Secretary approved? How can our State Department denounce countries for engaging in torture while the CIA secretly transfers detainees to the very same countries? President Bush said that U.S. personnel do not engage in torture, but transferring detainees to other countries where they will be tortured does not absolve our government of responsibility. By outsourcing torture to these countries, we diminish our own values as a nation and lose our credibility as an advocate of human rights around the world.

Even without further government action, this scandal is not going to go away. It is time for us to lead the investigation, rather than wait to read about the latest discovery of abuse in the newspaper. As I have said before, there needs to be a thorough, independent investigation of the actions of those involved, from the people who committed abuses to the officials who set these policies in motion. The investigations completed thus far provide additional insight into how the prison abuses occurred, but their narrow mandates prevented them from addressing critical issues.

For example, an executive summary of the long-expected report on interrogation policy by Admiral Albert T. Church was released today. The full report, which is classified, reportedly criticizes the Pentagon for a failure of oversight, yet finds no direct evidence that high level officials ordered the mistreatment of detainees. The executive summary contains only a brief reference to the role of contractors in interrogations, and affirms that numerous contracts have been awarded in an ad hoc fashion and without central coordination. The role of contractors is an area sorely in need of a comprehensive investigation.

Similarly, the unclassified summary leaves many questions unanswered about Department of Defense (DOD) interaction with the CIA. It confirms that approximately 30 detainees were kept "off the books" in Iraq. The summary admits that DOD assisted the intelligence agencies with detainee transfers and supported interrogations by "other government agencies"—which is government-speak for the CIA—at DOD facilities. What is missing from the Church report, however, is